

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1931**

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**Introduced by Assembly Member Rodriguez**

February 12, 2016

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An act to amend Sections 1797.184, 1798.200, 1798.201, and 1798.202 of, and to repeal Section 1799.112 of, the Health and Safety Code, relating to public health.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1931, as amended, Rodriguez. Emergency medical services: paramedics: discipline.

Under existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, the Emergency Medical Services Authority is responsible for establishing training, scope of practice, and continuing education for emergency medical technicians and other prehospital personnel, including Emergency Medical Technician-I (EMT-I), Emergency Medical Technician-II (EMT-II), and Emergency Medical Technician Paramedic (EMT-P) designations. The act authorizes an employer of an EMT-I or EMT-II to conduct investigations and take disciplinary action against an EMT-I or EMT-II who is employed by that employer for specified conduct, and authorizes the authority to, among other things, deny, suspend, or revoke any EMT-P license for the same specified conduct. Existing law requires an EMT-P's employer to report in writing to the local EMS agency and the authority within 30 days of specified disciplinary action being taken with regard to an EMT-P.

This bill would require the authority to develop and adopt guidelines for disciplinary orders, temporary suspensions, and conditions of probation for EMT-P licenseholders. The bill would also integrate and conform the procedures for investigating misconduct of EMT-P licenseholders with those of EMT-I and EMT-II certificate holders, including requiring notification of disciplinary action with regard to an EMT-P to be given to the local EMS agency and the authority within 3 days.

Existing law authorizes the medical director of the local EMS agency to evaluate information that comes to his or her attention that appears to constitute grounds for disciplinary action against an EMT-P and to make a recommendation to the authority for further investigation or discipline. Existing law also authorizes the temporary suspension, in specified circumstances, of an EMT-P license.

This bill would require the medical director of the local EMS agency, if he or she makes a recommendation to the authority for further investigation or discipline, to notify the EMT-P's employer within 3 days. The bill would additionally require notification of the EMT-P's employer when there is a temporary suspension of an EMT-P's license.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1797.184 of the Health and Safety Code
- 2 is amended to read:
- 3 1797.184. The authority shall develop and, after approval by
- 4 the commission pursuant to Section 1799.50, adopt all of the
- 5 following:
- 6 (a) Guidelines for disciplinary orders, temporary suspensions,
- 7 and conditions of probation for EMT-I and EMT-II certificate
- 8 holders and EMT-P licenseholders that protect the public health
- 9 and safety.
- 10 (b) Regulations for the issuance of EMT-I and EMT-II
- 11 certificates by a certifying entity that protect the public health and
- 12 safety.
- 13 (c) Regulations for the recertification of EMT-I and EMT-II
- 14 certificate holders that protect the public health and safety.
- 15 (d) Regulations for disciplinary processes for EMT-I and EMT-II
- 16 applicants and certificate holders that protect the public health and

1 safety. These disciplinary processes shall be in accordance with  
2 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
3 3 of Title 2 of the Government Code.

4 SEC. 2. Section 1798.200 of the Health and Safety Code is  
5 amended to read:

6 1798.200. (a) (1) (A) Except as provided in paragraph (2),  
7 an employer of an EMT-I, EMT-II, or EMT-P may conduct  
8 investigations, as necessary, and take disciplinary action against  
9 an EMT-I, EMT-II, or EMT-P who is employed by that employer  
10 for conduct in violation of subdivision (c). The employer shall  
11 notify the regulating entity within three days when an allegation  
12 has been validated as a potential violation of subdivision (c).

13 (B) Each employer of an EMT-I, EMT-II, or EMT-P shall notify  
14 the regulating entity within three days after the EMT-I, EMT-II,  
15 or EMT-P is terminated or suspended for a disciplinary cause, the  
16 EMT-I, EMT-II, or EMT-P resigns following notification of an  
17 impending investigation based upon evidence that would indicate  
18 the existence of a disciplinary cause, or the EMT-I, EMT-II, or  
19 EMT-P is removed from EMT-related duties for a disciplinary  
20 cause after the completion of the employer's investigation. The  
21 employer of an EMT-P shall provide the regulating entity with all  
22 supporting documentation at the time of notification.

23 (C) At the conclusion of an investigation, the employer may  
24 develop and implement, in accordance with the guidelines for  
25 disciplinary orders, temporary suspensions, and conditions of  
26 probation adopted pursuant to Section 1797.184, a disciplinary  
27 plan for the EMT-I, EMT-II, or EMT-P. Upon adoption of the  
28 disciplinary plan, the employer shall submit that plan to the  
29 regulating entity within three working days. The employer's  
30 disciplinary plan may include a recommendation that the director  
31 consider taking action against the holder's certificate or license  
32 pursuant to paragraph (3).

33 (2) If an EMT-I, EMT-II, or EMT-P is not employed by an  
34 ambulance service licensed by the Department of the California  
35 Highway Patrol or a public safety agency, or if that ambulance  
36 service or public safety agency chooses not to conduct an  
37 investigation pursuant to paragraph (1) for conduct in violation of  
38 subdivision (c), the director shall conduct the investigations, and,  
39 upon a determination of disciplinary cause, take disciplinary action  
40 as necessary against the EMT-I, EMT-II, or EMT-P. At the

1 conclusion of these investigations, the director shall develop and  
2 implement, in accordance with the recommended guidelines for  
3 disciplinary orders, temporary orders, and conditions of probation  
4 adopted pursuant to Section 1797.184, a disciplinary plan for the  
5 EMT-I, EMT-II, or EMT-P. The director's disciplinary plan may  
6 include action against the holder's certificate or license pursuant  
7 to paragraph (3).

8 (3) The director may, upon a determination of disciplinary cause  
9 and in accordance with regulations for disciplinary processes  
10 adopted pursuant to Section 1797.184, deny, suspend, or revoke  
11 any EMT-I or EMT-II certificate or EMT-P license issued under  
12 this division, or may place an EMT-I or EMT-II certificate holder  
13 or EMT-P licenseholder on probation, upon the finding by the  
14 director of the occurrence of any of the actions listed in subdivision  
15 (c) and the occurrence of one of the following:

16 (A) The employer, after conducting an investigation, failed to  
17 impose discipline for the conduct under investigation, or the  
18 director makes a determination that the discipline imposed was  
19 not according to the guidelines for disciplinary orders and  
20 conditions of probation and the conduct of the EMT-I or EMT-II  
21 certificate holder or EMT-P licenseholder constitutes grounds for  
22 disciplinary action against the holder's certificate or license.

23 (B) Either the employer further determines, after an investigation  
24 conducted under paragraph (1), or the director determines after an  
25 investigation conducted under paragraph (2), that the conduct  
26 requires disciplinary action against the holder's certificate or  
27 license.

28 (4) The director, after consultation with the employer, may  
29 temporarily suspend, prior to a hearing, an EMT-I or EMT-II  
30 certificate, an EMT-P license, or a combination thereof upon a  
31 determination that both of the following conditions have been met:

32 (A) The certificate holder or licenseholder has engaged in acts  
33 or omissions that constitute grounds for revocation of the EMT-I  
34 or EMT-II certificate or EMT-P license.

35 (B) Permitting the certificate holder or licenseholder to continue  
36 to engage in the regulated activity without restriction would pose  
37 an imminent threat to the public health or safety.

38 (5) If the director temporarily suspends a certificate or license,  
39 the regulating entity shall notify the certificate holder or  
40 licenseholder that his or her certificate or license is suspended and

shall identify the reasons therefor. Within three working days of the initiation of the suspension by the regulating entity, the regulating entity and employer shall jointly investigate the allegation in order for the regulating entity to make a determination of the continuation of the temporary suspension. All investigatory information not otherwise protected by law held by the regulating entity and employer shall be shared between the parties via facsimile transmission or overnight mail relative to the decision to temporarily suspend. The regulating entity shall decide, within 15 calendar days, whether to serve the certificate holder or licenseholder with an accusation pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If the certificate holder or licenseholder files a notice of defense, the hearing shall be held within 30 days of the regulating entity's receipt of the notice of defense. The temporary suspension order shall be deemed vacated if the regulating entity fails to make a final determination on the merits within 15 days after the administrative law judge renders the proposed decision.

(6) The director shall refer, for investigation and discipline, any complaint received on an EMT-I, EMT-II, or EMT-P to the relevant employer within three days of receipt of the complaint, pursuant to subparagraph (A) of paragraph (1) of subdivision (a).

(b) For purposes of this section, the following definitions shall apply:

(1) "Director" means either of the following:

(A) For purposes of EMT-I or EMT-II certificate holders, the medical director of the local EMS agency that has ~~jurisdiction in the county in which the alleged violation occurred.~~ *jurisdiction.*

(B) For purposes of EMT-P licenseholders, the Director of the Emergency Medical Services Authority.

(2) "Regulating entity" means either of the following:

(A) For purposes of EMT-I and EMT-II certificate holders, the local EMS agency that has ~~jurisdiction in the county in which the alleged violation occurred.~~ *jurisdiction.*

(B) For purposes of EMT-P licenseholders, the EMS Authority. When requiring a report or notification regarding an EMT-P, "regulating entity" refers to both the local EMS agency that has ~~jurisdiction in the county in which the alleged violation occurred~~ *jurisdiction* and the EMS Authority.

(c) Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the denial, suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate holder or licenseholder under this division:

(1) Fraud in the procurement of any certificate or license under this division.

(2) Gross negligence.

(3) Repeated negligent acts.

(4) Incompetence.

(5) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel.

(6) Conviction of any crime that is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

(7) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this division or the regulations adopted by the authority pertaining to prehospital personnel.

(8) Violating or attempting to violate any federal or state statute or regulation that regulates narcotics, dangerous drugs, or controlled substances.

(9) Addiction to, the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

(10) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

(11) Demonstration of irrational behavior or occurrence of a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired.

(12) Unprofessional conduct exhibited by any of the following:

(A) The mistreatment or physical abuse of any patient resulting from force in excess of what a reasonable and prudent person trained and acting in a similar capacity while engaged in the performance of his or her duties would use if confronted with a similar circumstance. Nothing in this section shall be deemed to prohibit an EMT-I, EMT-II, or EMT-P from assisting a peace

1 officer, or a peace officer who is acting in the dual capacity of  
2 peace officer and EMT-I, EMT-II, or EMT-P, from using that force  
3 that is reasonably necessary to effect a lawful arrest or detention.

4 (B) The failure to maintain confidentiality of patient medical  
5 information, except as disclosure is otherwise permitted or required  
6 by law in Part 2.6 (commencing with Section 56) of Division 1 of  
7 the Civil Code.

8 (C) The commission of any sexually related offense specified  
9 under Section 290 of the Penal Code.

10 (d) The information shared among EMT-I, EMT-II, and EMT-P  
11 employers, medical directors of local EMS agencies, the authority,  
12 and EMT-I and EMT-II certifying entities shall be deemed to be  
13 an investigative communication that is exempt from public  
14 disclosure as a public record pursuant to subdivision (f) of Section  
15 6254 of the Government Code. A formal disciplinary action against  
16 an EMT-I, EMT-II, or EMT-P shall be considered a public record  
17 available to the public, unless otherwise protected from disclosure  
18 pursuant to state or federal law.

19 (e) For purposes of this section, “disciplinary cause” means  
20 only an action that is substantially related to the qualifications,  
21 functions, and duties of an EMT-I, EMT-II, or EMT-P and is  
22 evidence of a threat to the public health and safety described in  
23 subdivision (c).

24 (f) The reporting requirements of subdivision (a) do not require  
25 or authorize the release of information or records of an EMT-P  
26 who is also a peace officer protected by Section 832.7 of the Penal  
27 Code.

28 (g) Proceedings against any EMT-P licenseholder shall be held  
29 in accordance with Chapter 5 (commencing with Section 11500)  
30 of Part 1 of Division 3 of Title 2 of the Government Code.

31 (h) (1) Pursuant to subdivision (i) of Section 1798.24 of the  
32 Civil Code, upon notification to the EMT-P, the EMS Authority  
33 may share the results of its investigation pursuant to subdivision  
34 (a) with the employer, a prospective employer when requested, in  
35 writing, as part of a preemployment background check, or the local  
36 EMS agency.

37 (2) An EMT-P licensee or applicant to whom the information  
38 pertains, as set forth in subdivision (a) of Section 1798.24 of the  
39 Civil Code, may view the contents of a closed investigation file  
40 upon request during the EMS Authority’s regular business hours.

1 SEC. 3. Section 1798.201 of the Health and Safety Code is  
2 amended to read:

3 1798.201. (a) When information comes to the attention of the  
4 medical director of the local EMS agency that an EMT-P  
5 licenseholder has committed any act or omission that appears to  
6 constitute grounds for disciplinary action under this division, the  
7 medical director of the local EMS agency may evaluate the  
8 information to determine if there is reason to believe that  
9 disciplinary action may be necessary.

10 (b) If the medical director sends a recommendation to the  
11 authority for further investigation or discipline of the licenseholder,  
12 the medical director shall also notify, within three days, the  
13 EMT-P's employer. The recommendation to the authority and the  
14 notification sent to the employer shall include all documentary  
15 evidence collected by the medical director in evaluating whether  
16 or not to make that recommendation. The recommendation and  
17 accompanying evidence shall be deemed in the nature of an  
18 investigative communication and be protected by Section 6254 of  
19 the Government Code. In deciding what level of disciplinary action  
20 is appropriate in the case, the authority shall consult with the  
21 medical director of the local EMS agency.

22 SEC. 4. Section 1798.202 of the Health and Safety Code is  
23 amended to read:

24 1798.202. (a) The director of the authority or the medical  
25 director of the local EMS agency, after consultation with the  
26 relevant employer, may temporarily suspend, prior to hearing, an  
27 EMT-P license upon a determination that: (1) the licensee has  
28 engaged in acts or omissions that constitute grounds for revocation  
29 of the EMT-P license; and (2) permitting the licensee to continue  
30 to engage in the licensed activity, or permitting the licensee to  
31 continue in the licensed activity without restriction, would present  
32 an imminent threat to the public health or safety. When the  
33 suspension is initiated by the local EMS agency, subdivision (b)  
34 shall apply. When the suspension is initiated by the director of the  
35 authority, subdivision (c) shall apply.

36 (b) The local EMS agency shall notify the licensee that his or  
37 her EMT-P license is suspended and shall identify the reasons  
38 therefor. Within three working days of the initiation of the  
39 suspension by the local EMS agency, the agency shall transmit to  
40 the authority and the EMT-P's employer, via facsimile transmission



1 or overnight mail, all documentary evidence collected by the local  
2 EMS agency relative to the decision to temporarily suspend. Within  
3 two working days of receipt of the local EMS agency's  
4 documentary evidence, the director of the authority shall determine  
5 the need for the licensure action. Part of that determination shall  
6 include an evaluation of the need for continuance of the suspension  
7 during the licensure action review process. If the director of the  
8 authority determines that the temporary suspension order should  
9 not continue, the authority shall immediately notify the licensee  
10 and his or her employer that the temporary suspension is lifted. If  
11 the director of the authority determines that the temporary  
12 suspension order should continue, the authority shall immediately  
13 notify the licensee and his or her employer of the decision to  
14 continue the temporary suspension and shall, within 15 calendar  
15 days of receipt of the EMS agency's documentary evidence, serve  
16 the licensee with a temporary suspension order and accusation  
17 pursuant to Chapter 5 (commencing with Section 11500) of Part  
18 1 of Division 3 of Title 2 of the Government Code.

19 (c) The director of the authority shall initiate a temporary  
20 suspension with the filing of a temporary suspension order and  
21 accusation pursuant to Chapter 5 (commencing with Section 11500)  
22 of Part 1 of Division 3 of Title 2 of the Government Code and shall  
23 notify the director of the local EMS agency, and the relevant  
24 employer.

25 (d) If the licensee files a notice of defense, the hearing shall be  
26 held within 30 days of the authority's receipt of the notice of  
27 defense. The temporary suspension order shall be deemed vacated  
28 if the authority fails to make a final determination on the merits  
29 within 15 days after the administrative law judge renders the  
30 proposed decision.

31 SEC. 5. Section 1799.112 of the Health and Safety Code is  
32 repealed.